

### REMARKS

Claims 7, 10, 24-28, 30 and 32-36 are pending in the present Application. No claims have been cancelled, added or amended, leaving claims 7, 10, 24-28, 30 and 32-36 for consideration upon entry of the present amendment.

Reconsideration and allowance of the claims are respectfully requested in view of the following remarks.

#### Interview Summary

Applicants' representative Karen A. LeCuyer had a telephonic interview with Examiner Wong on April 25, 2007. The discussion focused on the Applicants' Rule 1.131 declaration of Nayankumar B. Trivedi. The Examiner alleged that the Declaration was insufficient to overcome the rejection over U.S. Patent No. 6,495,184 to Zheng. In particular, the Examiner noted that the evidence in support of the claims was in the form of attorney notes for a meeting with the inventors (i.e., conception of the invention) combined with diligent reduction to practice. The Examiner appeared to suggest that an actual reduction to practice was required. Applicant's representative pointed out that in MPEP § 715, the showing of facts in a Rule 1.131 declaration must be to establish "reduction to practice prior to the effective date of the reference, **or** conception of the invention prior to the effective date of the reference coupled with due diligence from prior to said date to a subsequent reduction to practice or the filing of the application." Applicants' representative explained that the Rule 131 declaration evidences conception of the invention prior to the effective date of Zheng coupled with due diligence in the filing of the patent application. Examiner Wong suggested that the Applicants should resubmit the declaration pointing out an actual reduction to practice in the laboratory notes. Examiner Wong also said she would consult with her supervisor regarding the Rule 131 Declaration and give Applicants' representative more feedback. Examiners' representative left several phone messages for Examiner Wong, which were not returned.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 7, 10, 24-28, 30, and 32-36 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over U.S. Patent No. 6,495,184 to Zheng, et al., in view of U.S. Patent No. 4,267,195 to Boudreau, et al. and U. S. Patent No. 6,312,746 to Paluch. Applicants respectfully traverse this rejection.

Zheng et al. teaches a grilled meat flavor formed by combining a fat, an amino acid and a reducing sugar under conditions sufficient to produce a Maillard reaction. (Abstract) Zheng et al. teaches a two-step heating process in which the reaction mixture is first heated to 65-95°C as a conditioning step, then to 100-160°C to react. (Col. 4, ll. 1-28) The filing date of Zheng et al. is October 12, 2001, just one month prior to the November 13, 2001 filing date of the present application. Zheng et al. is thus a reference under 35 U.S.C. § 102(e).

Boudreau is directed to dog food flavors containing “L-proline, L-cysteine, L-histidine, L-lysine, inosine 5’-triphosphate (ITP), inosine 5’-diphosphate (IDP), and adenosine 5’-triphosphate (ATP)”. (Abstract) The use of these compounds in dog foods can “increase their palatability to dogs”. (Abstract) The flavors can be “applied to the exterior of the fat coating” or incorporated into the dog food by “simple mixing with the other ingredients”. (col. 2, ll. 42-46) There is no description of heating or in any way reacting the L-cysteine, etc.

Paluch is directed to a multi-component pet food having inner and outer components. (Abstract) The filling may comprise, for example, hydrolyzed meat protein. (col. 10, l. 61)

In their previous response, Applicants submitted a Rule 1.31 Declaration showing conception of the invention prior to Zheng coupled with due diligence in the filing of the present patent application. In making the rejection, the Examiner alleges “Exhibits C and D appear to be directed to conception of the invention, not supported by proof, such as by demonstrative evidence or by a complete disclosure to another. (March 21, 2007 Office Action, p. 3)

In the Rule 1.131 declaration of Nayankumar B. Trivedi submitted in the January 2, 2007 Amendment, Exhibits C and D are attorney notes prepared during discussions between the inventors and patent attorney Patrick D. Kelly, who originally filed the present application. Exhibit D supports an ambient pressure and temperature of about 90°C to about 98°C and a pressure of greater than about 10 pounds per square inch and a temperature of about 100°C to about 200°C (Exhibit D, page 3). The addition of additional flavor components such as liver and

viscera is also disclosed. (Exhibit C, page 1) Thus, the claim limitations the Examiner alleges are not supported by the evidence submitted are clearly identified in Exhibits C and D.

In MPEP § 715, the showing of facts in a Rule 1.131 declaration must be to establish “reduction to practice prior to the effective date of the reference, **or** conception of the invention prior to the effective date of the reference coupled with due diligence from prior to said date to a subsequent reduction to practice or the filing of the application.” In the present case, both conception of the invention prior to the effective date of Zheng and due diligence in filing of the present application have been established. (see Rule 1.131 declaration, (2)) Thus, Applicants have antedated Zheng, which is not available as a reference.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a prima facie case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). Establishing a prima facie case of obviousness requires that all elements of the invention be disclosed in the prior art. *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970).

Zheng et al. is not available as a reference, and the remaining cited references at least do not teach the claimed temperature ranges. Thus, the references do not teach all elements of the present claims and do not render the present claims obvious.

It is believed that the foregoing remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and withdrawal of the objection(s) and rejection(s) and allowance of the case are respectfully requested.

Docket No: AFB-0014

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

CANTOR COLBURN LLP

By Karen G. LeCuyer  
Karen LeCuyer  
Registration No. 51,928

Date: May 21, 2007  
CANTOR COLBURN LLP  
55 Griffin Road South  
Bloomfield, CT 06002  
Telephone (860) 286-2929  
Facsimile (860) 286-0115  
Customer No.: 23413